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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,826

03/17/2004

Toshiaki Katsuma

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40615 7590 11/29/2007  
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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

11/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,826	KATSUMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jorge L. Ortiz-Criado	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3, 5-15, 18, 20, 21 and 23-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 16, 17, 19 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 09/12/2007 have been fully considered but they are not persuasive.

Applicant argues that there is nothing in Katayama that corresponds to the aperture as claimed that is an open space of a specified size in the substrate, and that Katayama appears to show that the aperture is formed on the substrate.

The examiner cannot concur, Katayama shows in Figure 2 that the aperture (20) of a specified size (2b) is in the substrate (23). Katayama discloses that the aperture (2b) or circular slot is in the substrate, because it is formed by shaping the substrate (22, 23) by deposition and etching.

### ***Election/Restrictions***

Applicant argues that contrary of what is being recited in the previous office action, the election should be characterized as being made “with traverse” rather than “without traverse”.

However, Applicant's election of Species a in the reply filed on 04/02/2007 was acknowledged, and the applicant did not distinctly and specifically point out, nor mention any supposed errors in the restriction requirement, the election is treated as an election without traverse (MPEP § 818.03(a)).

Claims 3, 5-15, 18, 20-21 and 23-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. As outlined above the election was made **without** traverse in the reply filed on 04/02/2007.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Katayama et al. J.P. Publication No. 09-054977.

Regarding claim 1, Katayama et al. discloses an aperture limiting element (15) that has a wavelength selectivity (see for example Figs. 1-2), comprising: an aperture (20) that is an open space of a specified size (2b) formed in a substrate (23); and in an area outside the aperture and that surrounds the aperture, a light filter (23) is provided wherein light of a specified wavelength ( $\lambda_1$ -635nm) is transmitted, and light of a wavelength ( $\lambda_2$ -785nm) is prevented from passing straight through (see [0017]-[0018]).

Regarding claim 2, Katayama et al. discloses wherein: the light of wavelength ( $\lambda_2$ ) that is prevented from passing straight through is blocked, wherein ( $\lambda_1 < \lambda_2$ ) (see [0018]).

Regarding claim 4, Katayama et al. discloses wherein the construction is such that the difference in the optical path length of light of the first wavelength ( $\lambda_1$ ) that is transmitted by the substrate and said filter versus the optical path length of light of the first wavelength ( $\lambda_1$ ) that passes through the open space of said aperture is  $m \cdot \lambda_1$ , where  $m$  is a positive integer (See [0017], is constructed such that phase compensation is provided by 23 adjusting the phase contrast, hence compensating for difference in path length multiplied positively to the  $\lambda_1$  wavelength).

Regarding claim 16, 17 and 19, Katayama et al. an optical pickup device (Fig. 1) that includes an objective lens (16), an optical pickup element (13; 14), and the aperture limiting element according (15) to claims 1, 2 or 4.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al. (J.P. Publication No. 09-054977) in view of Kadowaki et al. (Patent Application Publication 2001/0036142).

Katayama et al. discloses all the limitations according to claim 16 as outlined above and further discloses wherein the objective lens (16) is a positive lens having a convex surface

(Shown in Fig. 1) on the light-source (11; 12) side, but fails to disclose that the convex surface is inserted into the open space of the aperture.

However, this feature is well known in the art and is evidenced by Kadowaki et al. (142), which discloses an optical pickup including an objective lens (19) and an aperture-limiting element (20) arranged so that the convex surface is inserted into an open space of the aperture (see Fig., 1).

It would have been obvious to one of an ordinary skill in the art to arrange the objective lens such that that the convex surface is inserted into the open space of an aperture limiting member in order to reduce the thickness of the optical pickup device when providing the objective lens inserted into an open space of the aperture, thereby maximizing the space in the optical pickup device.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

joc

/William Korzuch/  
SPE, Art Unit 2627